



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
89/173,134	10/15/98	GABRIEL G	364106/176

PM51/0506  
STROOCK & STROOCK & LAVAN  
180 MAIDEN LANE  
NEW YORK NY 10038

EXAMINER  
NGUYEN, S

ART UNIT	PAPER NUMBER
3643	

DATE MAILED: 05/06/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
**09/173,134**

Applicant(s)  
**Gabriel et al.**

Examiner  
**Son T. Nguyen**

Group Art Unit  
**3643**



☒ Responsive to communication(s) filed on Oct 15, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-7 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-7 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on Oct 15, 1998 is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3643

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a) because they fail to show reference numerals 12, 14, 15, 22, 33, 43, 46, 47, 48, 50, 59, 61, 65, 1b, h, 240, 224, 1a, as described in the specification. In addition, on page 7, line 21, the element "a hole or slot" is not given a reference numeral and shown on the drawings; on page 8, line 10, the element "a rack watering valve" is not given a reference numeral and shown on the drawings. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Correction is required.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "73" has been used to designate both a skirt and a channel. Reference character "24" has been used to designate both a main body and a water holder. Reference character "20" has been used to designate both a flange and a border. Reference character "10" has been used to designate both a skirt and a rack system. Reference character "12" has been used to designate both a side wall and a row of rack. Correction is required.

Art Unit: 3643

***Specification***

3. The disclosure is objected to because of the following informalities: On page 13, line 1, the phrase "and top 9" (2nd occurrence) should be deleted. Appropriate correction is required.

***Claim Rejections - 35 U.S.C. § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 3-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 3, lines 4-5, the phrases "the depth" and "the length" are unclear because they fail to point out "the depth" and "the length" of what elements.

***Claim Rejections - 35 U.S.C. § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lovitt (US 3,978,819). Lovitt discloses a cage system comprising a rack 11 having a depth; a cage bottom

Art Unit: 3643

17 having a plurality of integral side walls 23-26, a floor 21, and an open top, and is disposed in the rack. In addition, Lovitt discloses in column 3, lines 15-16, adding more than one row of cages on the tier, thus creating a double-sided rack. However, Lovitt does not disclose a length of the cage bottom being less than 36 inches, or being less than 18 inches, and an area of the cage bottom being in the range of 80 square inches  $\leq l \times w \leq 140$  square inches. It would have been obvious as a matter of choice to one having ordinary skill in the art at the time the invention was made to dimension the cage bottom of Lovitt with various length, width, and depth in order to accommodate different sizes of the contained animal. Regarding claim 5, Lovitt does not disclose a sum of the length of a portion extending beyond the rack and a depth of the rack being less than 36 inches. It would have been obvious as a matter of choice to one having ordinary skill in the art at the time the invention was made to dimension the cage bottom and the rack of Lovitt with various lengths, widths, and depths in order to accommodate different sizes of the contained animal and different housing entrances where the rack is to be stored.

### *Conclusion*

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is (703) 305-0765. The examiner can normally be reached on Monday - Friday from 8:30 a.m. to 5:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Carone, can be reached at (703) 306-4198. Any inquiry of a general nature or relating to the status of this

Application/Control Number: 09/173,134

Page 5

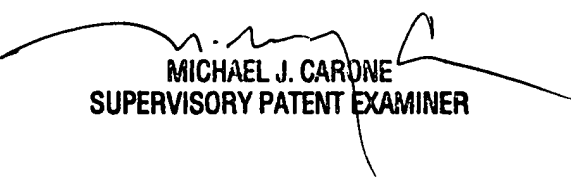
Art Unit: 3643

application or proceeding should be directed to the receptionist whose telephone number is (703) 306-4177.

Son T. Nguyen *STN*

Patent Examiner GAU 3643

May 3, 1999



MICHAEL J. CARONE  
SUPERVISORY PATENT EXAMINER